

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**PAUL BUCKNER,**

**Petitioner,**

v.

**Civil Action No. 1:18cv214  
(Judge Keeley)**

**JENNIFER SAAD, Warden,**

**Respondent.**

**REPORT AND RECOMMENDATION THAT APPLICATION TO  
PROCEED WITHOUT PREPAYMENT OF FEES BE DENIED**

On November 27, 2018, the *pro se* Petitioner, Paul Buckner (“Buckner”) filed this habeas corpus petition pursuant to 28 U.S.C. § 2241. In addition, he filed a Motion for Leave to Proceed *in forma pauperis* (“IFP”) together with a Prisoner Trust Account Report and ledger sheets.

Buckner’s IFP motion contends that he is employed at the prison, earning only \$0.12 per pay, and that he has no income from any other source, including gifts from others. ECF No. 3 at 2. However, the ledger sheets and certified copy of Buckner’s inmate account statement reveal that he earned as much as \$19.00 per pay, and that he also received frequent deposits from Western Union money orders or other gifts, resulting in deposits of \$1,974.84 in the six-month period preceding the filing of his petition, for an average monthly balance of \$329.14. See ECF No. 4-1 at 13. His account balance was \$26.50 as of October 29, 2018, one day before he signed the petition. ECF No. 4 at 1. Consequently, it appears that Petitioner has sufficient funds to pay the \$5.00 filing fee.

Accordingly, the Petitioner’s request to proceed without prepayment of fees [ECF No. 3] should be **DENIED**, and the Petitioner should be ordered to pay the \$5.00 filing fee. The

Petitioner should also be warned that the failure to pay the full filing fee within the time allowed by the Court will result in the dismissal of his petition.

**Within fourteen (14) days** after being served with a copy of this Recommendation, the Petitioner may file with the Clerk of the Court, written objections identifying the portions of the Recommendation to which objections are made. Objections shall not exceed ten (10) typewritten pages or twenty (20) handwritten pages, including exhibits, unless accompanied by a motion for leave to exceed the page limitation, consistent with LR PL P 12. A copy of such objections should also be submitted to the United States District Judge. **Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985) United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk of the Court is directed to mail a copy of this Report and Recommendation to the *pro se* Petitioner by certified mail, return receipt requested, to his last known address as shown on his docket sheet.

DATED: November 28, 2018

/s/ *Michael John Aloi*  
MICHAEL JOHN ALOI  
UNITED STATES MAGISTRATE JUDGE